

Arizona Supreme Court Staff Attorneys' Office
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**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of)	
)	
)	
PETITION TO AMEND RULES)	Arizona Supreme Court No. R-_____
31.12(a), 31.14(a), 31.18(d), 31.20(e),)	
and 31.21(g), ARIZONA RULES)	
OF CRIMINAL PROCEDURE)	(expedited consideration requested)
)	
_____)	

PETITION TO AMEND THE RULES OF CRIMINAL PROCEDURE

Pursuant to Rule 28, Rules of the Supreme Court, Arizona Supreme Court Staff Attorneys' Office petitions the Court to adopt amendments to 31.12(a), 31.14(a), 31.18(d), 31.20(e), and 31.21(g), Arizona Rules of Criminal Procedure, as proposed in the attachment.

I. INTRODUCTION AND BACKGROUND

In 2017, the Arizona Supreme Court adopted a major revision and restyling of the Rules of Criminal Procedure ("Criminal Rules"), effective January 1, 2018.

The appellate court clerks file numerous handwritten appeals, petitions for review, other petitions, and motions ("handwritten filings") from self-representing criminal defendants. Of the 630 criminal petitions for review filed in the Arizona Supreme Court, for example, a majority

were from self-represented incarcerated litigants who have no access to computers. In the now-superseded version, the Criminal Rules specified page limits for handwritten appellate court filings. The current Criminal Rules prescribe word counts. While word-processing programs automatically tally word totals, handwritten pleadings provide no such cues to the author. The length of handwritten pleadings may most reliably (and most simply) be verified by number of pages.

In response to a request by and the agreement of the Arizona appellate court clerks, the Staff Attorneys' Office considered the difficulty presented in determining compliance with the word limits and therefore joins with the clerks in asking the Court to reinstitute page limits for handwritten appellate pleadings.

II. SUMMARY OF THE PROPOSED AMENDMENTS

The proposed amendments all concern Criminal Rule 31, Appeals. These changes amount to translating the word counts in various subsections of the rules listed in Rule 31.6(d) into number of pages by dividing the word limits by 280, the maximum number of words per page as provided in former Criminal Rule 31.13(b)(1).

The amendment would also re-establish that for handwritten pleadings under Rule 31.21 (Petition for Review), a party must file an original and one copy.

III. PRELIMINARY COMMENTS

This petition was not circulated for pre-petition comments.

IV. REQUEST FOR EMERGENCY ADOPTION

Adoption of the new Criminal Rules, which do not have any page limits for handwritten filings, has left the appellate court clerks without a reference point as of January 1, 2018 for enforcing compliance with the current Criminal Rule 31 word limits, short of counting each

word in thousands of handwritten filings. Petitioner accordingly requests expedited adoption of the proposed rule changes with a formal comment period to follow as permitted by Rule 28(G) of the Rules of the Supreme Court.

Respectfully submitted this ____ day of January, 2018

_____/s/_____
Judith R. Schaffert
Chief Staff Attorney

ATTACHMENT¹

ARIZONA RULES OF CRIMINAL PROCEDURE

Rule 31.12. Length and Form of Briefs

(a) Length of Briefs.

(1) *Opening/Answering Briefs.* Opening briefs and answering briefs must not exceed 14,000 words or, if handwritten, 50 pages.

(2) *Reply Briefs.* Reply briefs must not exceed 7,000 words or, if handwritten, 25 pages.

(3) *Combined Briefs.* If a party is filing a combined brief involving a cross-appeal, each separate portion of the combined brief must not exceed the number of words or pages that each of the separate briefs may contain.

(4) *Amicus Curiae Briefs.* Amicus curiae briefs or responses to amicus curiae briefs must not exceed 12,000 words or, if handwritten, 40 pages.

(5) *Certificate of Compliance.* Every brief must be accompanied by a certificate that confirms compliance with the word or page limits in (a)(1)-(4). Form 30 is a template certificate of compliance. A party preparing a certificate of compliance may rely on the word count of the word processing system used to prepare the brief if it counts the required words, including any footnotes.

(b) – (c) [no change]

Rule 31.13 Due Dates; Filing and Service of Briefs [no change]

Rule 31.14. Provisions Applicable Only to Briefs in Capital Case Appeals

(a) **Length of Briefs.** Opening briefs and answering briefs in a capital case appeal must not exceed 28,000 words or, if handwritten, 100 pages. Reply briefs must not exceed 14,000 words or, if handwritten, 50 pages.

(b) – (c) [no change]

Rules 31.15 – 31.17 [no change]

¹ Changes or additions in rule text are indicated by underscoring and deletions from text are indicated by ~~strikeouts~~.

Rule 31.18. Petition to Transfer

(a) – (c) [no change]

(d) Form of a Petition. A petition filed under (b) must be no more than 1,400 words or, if handwritten, 5 pages, must be in the form required by Rule 31.6(b), and must concisely explain why the Supreme Court should take jurisdiction of the case. The petitioner must serve a copy of the petition on each of the parties.

(e) – (f) [no change]

Rule 31.19. An Appellate Court's Orders and Decisions [no change]

Rule 31.20. Motion for Reconsideration

(a) – (d) [no change]

(e) Form and Length. A motion for reconsideration or a response to a motion for reconsideration must comply with Rule 31.6(b). A motion for reconsideration or a response to a motion for reconsideration may not exceed 3,500 words or, if handwritten, 12 pages. A certificate of compliance, as provided in Form 30, must accompany a motion for reconsideration or a response. A party preparing this certificate may rely on the word count of the word processing system used to prepare the motion or response if it counts the required words including any footnotes.

(f) Motions Not Permitted. [no change]

Rule 31.21. Petition for Review

(a) Purpose. [no change]

(b) Place and Time for Filing; Copies

(1) Place for Filing. Any petition for review, cross-petition for review, response to a petition for review or cross-petition for review, or motion to extend the time for filing any of these documents, must be filed with the Supreme Court clerk. If handwritten, the petition for review, cross-petition for review, response to a petition for review or cross-petition for review, or motion to extend the time for filing must include an original and one copy.

(2) *Timing*. [no change]

(c) – (f) [no change]

(g) Form and Length of Petition, Cross-Petition, and Responses.

(1) *Form*. [no change]

(2) *Length*. A petition, a cross-petition, or a response to a petition or cross-petition must not exceed 3,500 words or, if handwritten, 12 pages. A cross-petition combined with a response to a petition may not exceed 6,500 words or, if handwritten, 23 pages.

(3) *Certificate of Compliance*. [no change]

(h) – (l) [no change]